

# PLANNING COMMISSION

## ATTACHMENT G

Applicant's Responses

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# 1 Introduction

The City of Victorville (City) is processing an application for development of the Tentative Tract Map (TTM) 20576 Project (project or proposed project). The project involves the construction of a 242-lot single-family residential subdivision and associated improvements, including a total of approximately 110,745 square feet of green space throughout the project site, within four parks (Lots G, H, I, and K). The project site would be accessible via six entries: four from Cataba Road, and two from Topaz Road. The project would extend Verano Drive and Mesa Street east, onto the project site, and construct a series of internal roadways and cul-de-sacs. Parking would be provided by garages attached to each home, along with driveway and street parking.

The City of Victorville determined, as part of the Initial Study's preparation, that a Mitigated Negative Declaration was the appropriate environmental document for the proposed project's CEQA review. Certain projects or actions may also require oversight approvals or permits from other public agencies. The Initial Study and the Notice of Intent to Adopt a Mitigated Negative Declaration was forwarded to responsible agencies, trustee agencies, and the public for review and comment. A 30-day public review period was provided to allow these entities and other interested parties to comment on the proposed project and the findings of the Initial Study. Comment letters were received from the following entities:

- State of California Department of Fish and Wildlife. Inland Deserts Region. 3602 Inland Empire Boulevard, Suite C-220 Ontario, California 91764 (Letter dated April 11, 2025).

# 2 Comments and Responses

This section presents the comments received from CDFW on the Initial Study/Mitigated Negative Declaration (IS/MND) and the responses to comments (RTCs) received.

## **Response to Comment Letter A1**

**California Department of Fish and Wildlife**  
**Alisa Ellsworth, Environmental Program Manager**  
**April 11, 2025**

**A1-1** This comment is introductory in nature and describes the role of the California Department of Fish and Wildlife (CDFW) and the general description of the Project. The comment does not express adequacy concerns related to the environmental analysis in the Draft EIR. No response is required.

**A1-2** This comment recommends revisions to IS/MND mitigation measure MM-BIO-1, Western Joshua Tree Fee Payment. Regarding CDFW's recommended revisions to MM-BIO-1, we have reviewed the comments, and the proposed revisions are accepted and have been updated in Chapter 3, Revisions and Errata and in the Mitigation Monitoring and Reporting Program (MMRP).

These revisions do not change the impact conclusions in the IS/MND, nor do they result in any new significant impacts or the need for new or altered mitigation measures. Rather, this information merely clarifies information and conclusions that were already present in the IS/MND. As such, these changes would not result in a new significant impact or in an increase in the severity of a previously identified significant and, therefore, do not constitute significant new information defined by CEQA Guidelines Section 15088.5(a) that would warrant recirculation of the IS/MND.

**A1-3** This comment recommends revisions to IS/MND mitigation measure MM-BIO-7, Nesting Bird Avoidance. Regarding CDFW's recommended revisions to MM-BIO-7, we have reviewed the comments, and the proposed revisions are accepted and have been updated in Chapter 3, Revisions and Errata and MMRP.

These revisions do not change the impact conclusions in the IS/MND, nor do they result in any new significant impacts or the need for new or altered mitigation measures. Rather, this information merely clarifies information and conclusions that were already present in the IS/MND. As such, these changes would not result in a new significant impact or in an increase in the severity of a previously identified significant and, therefore, do not constitute significant new information defined by CEQA Guidelines Section 15088.5(a) that would warrant recirculation of the IS/MND.

**A1-4** This comment recommends revisions to IS/MND mitigation measure MM-BIO-6, Preconstruction Burrowing Owl Surveys. Regarding CDFW's recommended revisions to MM-BIO-6, we have reviewed the comments, and the proposed revisions are accepted and have been updated in Chapter 3, Revisions and Errata and the MMRP.

These revisions do not change the impact conclusions in the IS/MND, nor do they result in any new significant impacts or the need for new or altered mitigation measures. Rather, this information merely clarifies information and conclusions that were already present in the IS/MND. As such, these changes would not result in a new significant impact or in an increase in the severity of a previously identified significant and, therefore, do not constitute significant new information defined by CEQA Guidelines Section 15088.5(a) that would warrant recirculation of the IS/MND.

- A1-5** This comment is noted for the record and the Lead Agency, along with the Applicant and project's consultants conform to all pertinent requirements. This conclusory comment does not express adequacy concerns related to the environmental analysis in the Draft EIR. No response is required.

### 3 Revisions and Errata

This chapter contains minor revisions and clarifications to the IS/MND as a result of responses to comments on the IS/MND and others that are necessary to provide clarifications to the project description or to correct non-substantive errors.

These errata do not create an issue with regard to a stable and finite project description, nor do they constitute “substantial revisions” requiring recirculation of the IS/MND, as set forth in State CEQA Guidelines Section 15073.5. A substantial revision is identified as follows: (1) a new avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance or (2) the lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significant and new measures or revisions must be required. This entire document is incorporated into the record by reference.

Text from the draft IS/MND that has been removed is shown in strikethrough (i.e., ~~strikethrough~~), and text that has been added as part of the final IS/MND is shown as double underlined (i.e., underline).

#### Revised Mitigation in Response to Comment A1-2

Mitigation for direct impacts and indirect impacts to 23 western Joshua trees will be fulfilled through a payment of ~~the elected~~ fees as described in Section 1927.3 of the WJTCA. ~~In conformance with the fee schedule, mitigation will consist of payment of \$2,500 for each western Joshua tree five meters or greater in height; \$500 for each western Joshua tree less than five meters in height but greater than one meter; and \$340 for each western Joshua tree less than one meter in height.~~ California Department of Fish and Wildlife (CDFW) determines the final fee. Alternatively, if a CESA incidental take permit is obtained, mitigation will occur through off-site conservation or through a CDFW approved mitigation bank, or as required by the ~~a~~ Section 2081 Incidental Take Permit, ~~if received~~.

~~Along with~~ Prior to the fee payment, WJT Conservation Act (WJTCA) also requires submittal of a WTJCA Incidental Take Permit application, accompanied by a census of western Joshua trees within the Project site and a 50-foot buffer (census area). At minimum, the census requires parallel survey transects throughout the Census Area, photographs of each tree, and tree measurements per CDFW protocol.

Prior to the issuance of grading permits, the project applicant shall also submit an application and applicable fee paid to the County of San Bernardino for removal or relocation of protected western Joshua tree under California Desert Native Plants Act (CDNPA), as determined by designated County personnel. However, removal, trimming, encroachment upon, or relocation of western Joshua tree shall not occur without an incidental take permit from CDFW.

The project must also receive written consent from the City of Victorville’s Director of Parks and Recreation prior to the removal or relocation of western Joshua trees in accordance with City of Victorville Code of Ordinances, Chapter 13.33, Preservation and Removal of Joshua Trees.

## Revised Mitigation in Response to Comment A1-3

~~Construction activities shall avoid the migratory bird nesting season (typically February 1 through August 31), to reduce any potential significant impact to birds that may be nesting on the survey area. If construction activities must occur during the migratory bird nesting season, Prior to vegetation removal or initial ground disturbance~~ an avian nesting survey of the project site and within 500 feet of all impact areas must be conducted to determine the presence/absence of ~~protected migratory~~ birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of construction in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. If the biologist does not find any active nests within or ~~immediately~~ adjacent to the impact areas, the vegetation clearing/construction work shall be allowed to proceed.

If an active bird nest is found (i.e., nests that support eggs, nestlings, or juveniles), the nest shall be flagged and mapped on the construction plans along with an appropriate buffer established around the nest, which will be determined by the qualified wildlife biologist based on the species' sensitivity to disturbance. The nest area shall be avoided until the nest is vacated and the juveniles have fledged, as confirmed by the qualified wildlife biologist. The nest area shall be demarcated in the field with flagging and stakes or construction fencing. On-site construction monitoring shall also be conducted when construction occurs in close proximity to an active nest buffer. No project activities may encroach into established buffers without the consent of a qualified monitoring biologist who has experience with monitoring nesting birds and who determines that encroachment will not cause an adverse effect to nesting birds. The buffer shall remain in place until it is determined the nestlings have fledged and the nest is no longer considered active, as confirmed by the qualified wildlife biologist.

## Revised Mitigation in Response to Comment A1-4

~~One pre construction burrowing owl survey shall be completed no more than 14 days before initiation of site preparation or grading activities, and a second survey shall be completed within 24 hours of the start of site preparation or grading activities. If grounddisturbing activities are delayed or suspended for more than 30 days after the preconstruction surveys, the project site shall be resurveyed. Breeding season~~ ~~S~~urveys for burrowing owl shall be conducted in accordance with protocols established in the 2012 (or most recent version) Staff Report on Burrowing Owl Mitigation.

If burrowing owls are detected, ~~a Burrowing Owl Relocation Plan~~ the Project proponent shall fully avoid impacts to burrowing owl ~~shall be implemented in consultation with the CDFW. If impacts to burrowing owl are unavoidable, the Project proponent shall obtain a CESA ITP. The Burrowing Owl Relocation Plan shall require avoidance of disturbance to occupied burrows during the nesting season (February 1 through August 31). Buffers shall be established around occupied burrows in accordance with guidance provided in CDFW's Staff Report on Burrowing Owl Mitigation. No project activities shall be allowed to encroach into established buffers without the consent of a monitoring biologist. The buffer shall remain in place until it is determined that occupied burrows have been vacated or the nesting season has completed.~~

Outside of the nesting season, passive owl relocation techniques approved by CDFW shall be implemented. Owls shall be excluded from burrows in the immediate project area and within a buffer zone by installing one-way doors in burrow entrances. These doors shall be placed at least 48 hours prior to ground-disturbing activities. The project site shall be monitored daily for 1 week to confirm owl departure from burrows prior

~~to any ground disturbing activities.~~ Compensatory mitigation for permanent loss of owl habitat shall be provided following the guidance in CDFW's Staff Report on Burrowing Owl Mitigation and as determined by CDFW through a CESA ITP.

~~Where possible, burrows shall be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe shall be inserted into the tunnels during excavation to maintain an escape route for any wildlife inside the burrow.~~

Should burrowing owl be located during the pre-construction survey, the project would result in the loss of at least 65.55 acres of occupied habitat for burrowing owl, and impacts shall be authorized and fully mitigated, as determined by CDFW, through a CESA ITP. Mitigation for direct impacts to occupied habitat shall be fulfilled through conservation of suitable burrowing owl habitat through the purchase of credits (if available) or perpetual management and conservation of acquired ~~at a minimum of 1:1~~ in-kind habitat ~~replacement of equal or better functions and values to those impacted by the project, for a total of 65.55~~ replacement of equal or better functions and values to those impacted by the project, for a total of 65.55 acres.

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